

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

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Case Title: David Brian Derringer

Case Number: 04-17330

Document Information

Description: Order Denying [109-1] Motion To Recuse Judge McFeeley by David Brian Derringer.

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re: DAVID DERRINGER,

No. 13-04-17330 MA

Debtor.

ORDER DENYING DEBTOR'S MOTION TO RECUSE

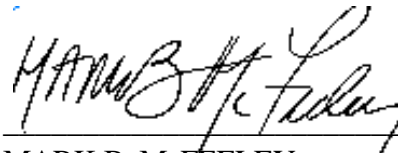
THIS MATTER is before the Court on Debtor David Derringer's Motion to Recuse Judge McFeeley Pursuant to Title 28 Section 455(a)(1) Due to Bias, Prejudice, and Criminal Acts Against the Debtor Under the Meaning of Title 18 U.S.C. Section 241 and Title 18 U.S.C. Section 242 of Constitutional Deprivations of the 8th, 13th, and 14th Amendment, and Deprivations Under Federal Laws Title 42 Section 1981(a) and Title 42 Section 1982 ("Motion"). After reviewing the Motion, and being otherwise sufficiently informed, the Court finds that recusal is unwarranted, and the Motion should therefore be denied.

Recusal is warranted pursuant to 28 U.S.C. §455 where "a reasonable person, knowing all the relevant facts, would harbor doubts about the judge's impartiality." *Hinman v. Rogers*, 831 F.2d 937, 939 (10th Cir. 1987). "[R]ecusal is necessary if there is evidence of actual bias. . ." *Frates v. Weinshienk*, 882 F.2d 1502, 1504 (10th Cir. 1989). However, unless it can be shown that there is pervasive bias against a party, the alleged bias must be based on extra-judicial conduct. *Gokey v. McIntosh (In re McIntosh)*, 137 B.R. 967, 970 (D.Colo. 1992) (citing *United States v. Page*, 828 F.2d 1476, 1481 (10th Cir. 1987). "Consistent adverse rulings, without more, is not a reason for recusal . . ." *Id.* (citation omitted). Moreover, "[t]here is as much obligation for a judge not to recuse when there is no occasion . . . to do so as there is . . . to [recuse] when there is." *In re American Ready Mix, Inc.*, 14 F.3d 1497, 1501 (10th Cir. 1994) (quoting *Hinman v. Rogers*, 831 F.2d 937,

938 (10th Cir. 1987)). Finally, “[a] judge should not recuse . . . on unsupported, irrational, or highly tenuous speculation.” *Id.*

Debtor’s unsupported allegations fail to meet these standards. "The [recusal] statute is not intended to give litigants a veto power over sitting judges, or a vehicle for obtaining a judge of their choice." *United States v. Cooley*, 1 F.3d 985, 993 (10th Cir.1993). Recusal is, therefore, unnecessary and unwarranted.

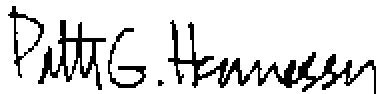
WHEREFORE, IT IS HEREBY ORDERED, that the Motion is DENIED.



MARK B. McFEELEY
United States Bankruptcy Judge

I certify that on the date shown on the attached document verification, a true and correct copy of the foregoing was either electronically transmitted, faxed, delivered or mailed to the listed counsel and/or parties.

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